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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,986	07/31/2001	Hiroshi Takayasu	JP920000214US1	3813

7590

08/05/2002

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EXAMINER

LAU, TUNG S

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 08/05/2002

NON-Final Due 11/5/02

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/918,986

Applicant(s)

TAKAYASU ET AL.

Examiner

Tung S Lau

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION:

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- a. Claims 1-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Ho et al. (U.S. Patent 5,233,545) in view of Nieratschker (U.S. Patent 6,405,236).

Ho discloses a system, method, data logging system for determining the performance of a data processing system having separate clocks, have a logging device, generating process with start time, a second logging device for the end time, calculating processing time by comparing the start time data and the end time data (col. 2, lines 15-68, fig. 1), logic for receiving notification for start and end process, logic for generating clock for start and end time, input data when process start by the first data, second notification included input data, start time and end time are associated with input data, using a step of recording medium (col. 2, lines 15-64), to record the start and end time of the process, contain information on the logging device.

Ho does not disclose the clock is of a logging device, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to have the clock is of a logging device in order to be have a more accurate results.

Ho does not disclose system is a software system with programmable software, use of networking, TCP and UDP protocol, Nieratschker disclose such application (col. 1, lines 5-23), to provide application for computer network with real time application (col. 2, lines 28-43).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to have the software system with programmable software, use of networking, TCP or UDP protocol taught by Nieratschker in order to provide application for computer network with real time application.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 703-305-3309. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John S Hilten can be reached on 703-308-0719. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TL

July 31, 2002



**JOHN S. HILTEN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2800**

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If the communication you have received has any issues that raise concerns as to the quality and/or clarity of the action taken by the examiner, we invite you to contact the appropriate Supervisory Primary Examiner. You may also contact one of our Quality Assurance Specialists.

**Quality Assurance Specialists:**

**Don Hajec.....703-308-4075**

**Paul Dzierzynski.....703-308-4822**

If the contents of the attached correspondence have any clerical omissions, e.g., missing references or pages, illegible text, or any other similar errors, please contact us at the number below. We will take appropriate action to expedite the necessary corrections. Also, if you have general questions concerning any application assigned to Technology Center 2800, please contact our Customer Service Center. Questions concerning the merits of the application must be directed to the Examiner in charge of the particular application, then to the supervisor if appropriate.

**TC 2800 Customer Service Center      Crystal Plaza 4-6<sup>th</sup> floor, D-corridor**

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Any matter not satisfactorily resolved by the listed resources should be brought to the attention of the appropriate Director listed below. We appreciate your assistance in helping us help you.

**Directors, Technology Center 2800**

**Semi-conductors, Electrical, Optical Systems & Components**

Sharon Gibson	703/308-0658	2810
Rolf G. Hille	703/306-0658	2820
Richard Seidel	703/306-3431	2830/40
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Janice A. Falcone	709/308-0530	2870/80